

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THE FEDERAL HOME LOAN
MORTGAGE CORPORATION,

Plaintiff,

v.

PAUL WHEATER, MARSHA WHEATER,
PEARL LAKE, LLC and
ALL OTHER OCCUPANTS,

Defendants,

and

PEARL LAKE, LLC,

Counter-Claimant,

v.

THE FEDERAL HOME LOAN
MORTGAGE CORPORATION,

Counter-Defendant.

Case No. 1:17-cv-745
Hon. Paul L. Maloney

STIPULATED ORDER OF DISMISSAL OF COUNTERCLAIMS AND JUDGMENT OF POSSESSION

James Shek (P37444)
Counsel for Pearl Lake
P.O. Box A
Allegan, MI 49010
(269) 673-6125

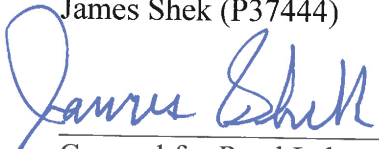
Christopher J. Breay (P51646)
McShane & Bowie, P.L.C.
Counsel for FHLMC
99 Monroe Avenue N.W.
Suite 1100
Grand Rapids, MI 49503
(616) 732-5000
cjb@msblaw.com

Stipulation

The Federal Home Loan Mortgage Corporation (“FHLMC”) and Pearl Lake, LLC stipulate as follows: This action involves property located at 7736 W 72d Street, Fremont, Michigan and more particularly described by the Sheriff’s Deed on Mortgage Sale recorded on October 31, 2016 at Liber 463, Page 4811, Newaygo County Register of Deeds (a copy of the Sheriff’s Deed appears at PageID.42) (“Property”). FHLMC and Pearl Lake stipulate to the dismissal with prejudice of Pearl Lake’s counterclaims against FHLMC. FHLMC and Pearl Lake further stipulate to the entry of a Judgment of Possession of the Property in favor of FHLMC and against all Defendants. Pearl Lake states that there are no occupants of the Property. Richard Wheeler, son of Defendants Paul and Marsha Wheeler (“Wheater Defendants”), has stated that the Wheeler Defendants have both passed away. ¶ 4(b), **Exhibit 1**. (The Court will recall that the Wheeler Defendants, before they passed, had moved to an assisted living facility in Hesperia (PageID.241) and Defaults had entered against them in this action (PageID.259).) Richard Wheeler has agreed to accept, on behalf of the Wheeler Defendants, service of the Order proposed below if entered. ¶ 4(d), **Exhibit 1**. He has stated that the Order may be served upon him by mailing it to 44 W Main Street, PO Box 7, Fremont, Michigan 49412. ¶ 4(e), **Exhibit 1**. (The Court will recall that the Defaults entered against the Wheeler Defendants after Richard Wheeler agreed to accept service of process at the same address of 44 W Main Street, Fremont, Michigan. PageIDs.241; 244.) Pearl Lake and FHLMC therefore stipulate to entry of the proposed Order below.

APPROVED:

James Shek (P37444)


Counsel for Pearl Lake

w/c
CJB
SEE ATT.

McShane & Bowie, P.L.C.

By: 

Christopher J. Breay (P51646)
Counsel for FHLMC

Order

Upon the stipulation of the parties, as indicated by the signatures of their counsel as set forth above, and the Court being otherwise fully apprised in the premises,

All of Pearl Lake, LLC's counterclaims are dismissed with prejudice.

Judgment of possession of the Property (as that term is described in the Stipulation above) is hereby entered in favor of The Federal Home Loan Mortgage Corporation("FHLMC") and against all Defendants.

FHMLC shall serve a copy of this Order upon Defendants Paul and Marsha Wheater by sending the Order by first-class mail to Richard Wheater at 44 W Main Street, PO Box 7, Fremont, Michigan 49412.

FHLMC will have the right to possession of the Property after 15 days have elapsed after a copy of this Order is mailed to Richard Wheater. FHLMC will also at that time have the right to apply to this Court for an Order of Eviction if necessary.

IT IS SO ORDERED

Dated: November 26, 2018

/s/ Paul L. Maloney
DISTRICT COURT

Exhibit 1

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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Case No. 1:17-cv-745
Hon. Paul L. Maloney

AFFIDAVIT OF MICHELLE M. VARGO

James Shek (P37444)
Counsel for Pearl Lake
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Allegan, MI 49010
(269) 673-6125

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Counsel for FHLMC
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Suite 1100
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(616) 732-5000
cjb@msblaw.com

STATE OF MICHIGAN)
) SS
COUNTY OF KENT)

I, Michelle M. Vargo, being first duly sworn, depose and say that:

1. I have personal knowledge of the facts set forth herein and, if called as a witness, can competently testify as to same.

2. I am employed by the law firm of McShane & Bowie, P.L.C. as a Legal Assistant.

3. On Wednesday, October 10, 2018 at approximately 10:15 a.m., I spoke on the telephone with Richard C. Wheeler, Sr.

4. At that time, Richard C. Wheeler, Sr. told me:

a. he is the son of Defendants Paul and Marsha Wheeler (“Wheater Defendants”).

b. both of the Wheeler Defendants are deceased.

c. he has Power of Attorney on behalf of both Wheeler Defendants.

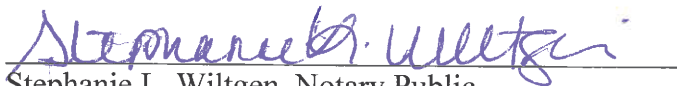
d. he agreed to accept, on behalf of both Wheeler Defendants, service of a judgement against them.

e. to effectuate service, he said we could send the judgment by U.S. Mail to 44 W Main Street, PO Box 7, Fremont, MI 49412.

FURTHER AFFIANT SAYETH NAUGHT.


Michelle M. Vargo

Subscribed and sworn to before me
this 14th day of November, 2018.


Stephanie L. Wiltgen, Notary Public
County of Kent, Acting in Kent County
My Commission Expires: 2/13/2022

APPROVED:

James Shek (P37444)


Counsel for Pearl Lake

McShane & Bowie, P.L.C.

By: _____
Christopher J. Breay (P51646)
Counsel for FHLMC

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IT IS SO ORDERED

Dated: _____

DISTRICT COURT

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